



State of Idaho

## DEPARTMENT OF WATER RESOURCES

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SOUTHERN REGION

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

7/9/2003

RECEIVED

JUL 11 2003

Department of Water Resources

Tim Luke  
IDWR

Croy Creek Area Water Users

RE: Distribution of Water

Dear Water Users,

In response to numerous contacts from landowners and requests for department intervention this letter is intended to provide a framework for future cooperation between parties. Known information, issues related to water right enforcement, and suggestions for temporary distribution of water are discussed below.

The main source of contention spurring this letter has been right holders and claimants of portions of right 37-208 with a priority of 6/1/1880. However all right holders in the Croy Creek drainage (including Elk Creek) have been included in this mailing. The validity and water right elements will be determined in the ongoing Snake River Basin Adjudication (SRBA) scheduled to begin in this area in 2005 and finalized in 2006.

IDWR is inviting all interested right/claim holders of the Croy Creek drainage to attend a meeting to be held at **5:00 pm on Wednesday July 23<sup>rd</sup> at 206 1<sup>st</sup> Ave. South, Suite #300, in the third floor meeting room, of the old courthouse in Hailey, ID.** The intent of this meeting is to pose to the water users the potential control of water delivery in the Croy Creek drainage by the Basin 37 Watermaster, Lee Peterson. This will be an informative meeting based on outlining the details of becoming part of a water district along with the requirements that are a part of watermaster controlled delivery, which includes installation of headgates and measuring devices.

The first concept of water delivery is first in time is the first in right. Meaning the oldest held priority gets their water satisfied first. However, all parties claiming portions of 37-208 share the same priority so, until watermaster control is enacted, IDWR encourages water users on the system to establish a cooperative system to distribute available water. The mechanics of equitable distribution may involve a rotation scheme and at this time is left to the users, or their consultants, to define. Two important elements of a successful distribution system include measurement and control works.

Another issue, which may be involved, is that of a futile call by users lower down the creek. In the case of a futile call, no matter what right is curtailed, the flow in the creek may be such that it sinks before reaching another user's diversion.

As stated before, all SRBA claims are tentative and the final disposition of each claim and the elements of each of the claims are subject to full due process under the SRBA. The above offered distribution suggestions are intended only to 1) illustrate that the owners of equal priority water rights/claims are all equally entitled to available flows *to the extent actually and historically used* and 2) as a stop gap until such time as watermaster control is established under Idaho law.

I look forward to meeting with all parties. Please contact this office if clarifications of this correspondence are needed.

Sincerely,

A handwritten signature in black ink, appearing to read "John Freitag". The signature is fluid and cursive, with a large initial "J" and "F".

John Freitag  
Water Resource Agent Sr.

Cc: Tim Luke, Allen Merritt, and Lee Peterson (IDWR)